

**57-8-32.5 Property taken by eminent domain -- Allocation of award -- Reallocation of interests.**

- (1) If any portion of the common areas and facilities is taken by eminent domain, the award for it shall be allocated to the unit owners in proportion to their respective undivided interests in the common areas and facilities.
- (2) If any units are taken by eminent domain, the undivided interest in the common areas and facilities appertaining to these units shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common areas and facilities. The court shall enter a decree reflecting the reallocation of undivided interests so produced, and the award shall include, without limitation, just compensation to the unit owner of any unit taken for his undivided interest in the common areas and facilities as well as for his unit.
- (3) If portions of any unit are taken by eminent domain, the court shall determine the fair market value of the portions of the unit not taken, and the undivided interest in the common areas and facilities appertaining to any such units shall be reduced, in the case of each unit, in proportion to the diminution in the fair market value of the unit resulting from the taking. The portions of undivided interest in the common areas and facilities thus divested from the unit owners of these units shall be reallocated among these units and the other units in the condominium project in proportion to their respective undivided interests in the common areas and facilities, with any units partially taken participating in the reallocation on the basis of their undivided interests as reduced in accordance with the preceding sentence. The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of his undivided interest in the common areas and facilities divested from him by operation of the first sentence of this Subsection (3), and not revested in him by operation of the following sentence, as well as for that portion of his unit taken by eminent domain.
- (4) The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of his undivided interest in the common areas and facilities divested from him and also not revested in him under this Subsection (4), as well as for that portion of his unit taken by eminent domain.
- (5) If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the declaration, then the entire undivided interest in the common areas and facilities appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interest in the common areas and facilities, and the remaining portion of that unit shall thenceforth be a common area and facility. The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of the unit for his entire undivided interest in the common areas and facilities and for his entire unit.

Enacted by Chapter 173, 1975 General Session